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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,531	11/14/2005	John A. Gelardi	CPG 03-23 MD	3315
38235	7590	12/01/2008		
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EXAMINER				
LALLI, MELISSA LYNN				
ART UNIT		PAPER NUMBER		
3728				
MAIL DATE		DELIVERY MODE		
12/01/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/556,531

Applicant(s)

GELARDI ET AL.

Examiner

MELISSA L. LALLI

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SG/08)
Paper No(s)/Mail Date 7/21/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 15, 2008 has been entered.

Claim Objections

2. Claim 8 is objected to because of the following informalities: on lines 12-13, "the front portion and strip section of the cover **is be** separated" should read "the front portion and strip section of the cover **are** separated." Appropriate correction is required.

Claim Rejections - 35 USC § 103

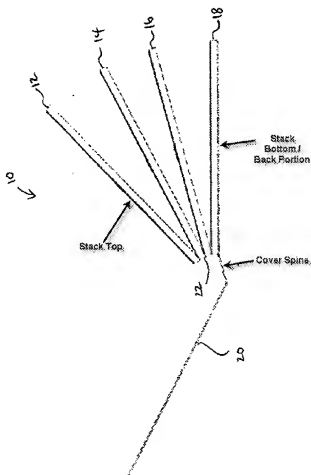
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0106814 to Gelardi et al. (Gelardi) in view of DE 20008218 to Petermann GmbH & Co. KG (Petermann).

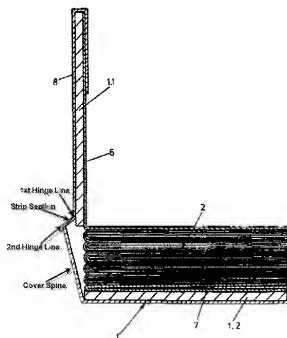
Regarding claims 3, 4, and 7, Gelardi discloses a package (10) for storing discs or articles comprising a stacked array of disc trays (12, 14, 16, 18) joined along a spine

(22) and defining a stack top, stack bottom, and a stack height. The disc trays are substantially planar elements. A cover is disclosed having a front portion (20) and a back portion separated by a cover spine having a width equal to the stack height (fig. 5). The back portion is fixedly attached to the stack bottom (fig. 6) and the front portion of the cover is separated from engagement with the stack when the cover is moved into an open position (see below).



Gelardi does not disclose the back portion of the cover including a strip section that is connected to the cover spine along a first hinge line and connected to the back

cover portion along a second hinge line. However, Petermann discloses a similarly bound package (fig. 1) with a front cover portion (1) and a back cover portion (8). The front portion and back portion are separated by a cover spine. The back portion includes a strip section that is connected to the cover spine along a first hinge line and connected to the back portion along a second hinge line (see below). It would have been obvious to one having ordinary skill in the art at the time of the invention to have incorporated the strip section of Petermann on the back portion of Gelardi in order to allow a problem-free and unhindered opening in addition to the planar elements lying flat when opened as taught by Petermann.



Regarding claim 5, according to the modification of Gelardi by Petermann as disclosed in claim 3 above, Gelardi discloses the cover as a jacket (22). It would have been obvious to one having ordinary skill in the art at the time of the invention that the jacket could be formed from a single ply substrate as a matter of design choice.

Regarding claim 6, according to the modification of Gelardi by Petermann as disclosed in claim 3 above, Gelardi discloses the back over portion being adhered to the stack bottom (paragraph [0035], lines 7-9).

Regarding method claim 8, all recited structures of the package have been explained above according to the modification of Gelardi by Petermann as discussed in claim 3. The method of making such a package is rendered obvious to one of ordinary skill in the art since all the claimed structures are present in the Gelardi/Petermann package.

Regarding method claim 9, according the rejection of method claim 8 above, Gelardi discloses the back cover section being mounted to the stack bottom (paragraph [0035], lines 7-9). Petermann also discloses elements of the package being bonded together with adhesive. Applying adhesive is obvious to one of ordinary skill in the art as a method of mounting objects together.

Response to Arguments

5. Applicant's arguments filed July 21, 2009 have been fully considered but they are not persuasive.

Regarding Applicant's argument that Petermann discloses a cover having three sections (a front portion, a back portion, and a spine portion) as to the four sections

disclosed by Applicant, the Examiner respectfully disagrees. Petermann discloses a front portion, a back portion, and a freely movable spine (3 mm broad margin). Fig. 1 discloses the spine having two sections with first and second hinge lines (see labeled fig. above). The spine can be flexible and still have multiple hinge lines as disclosed in Fig. 1 of the drawings. The freely movable spine performs the identical function as the spine of Applicant in allowing the package to lie flat.

Regarding Applicant's argument that Petermann does not allow the cover to move into an open position by pivoting about the first and second hinge axis, the Examiner respectfully disagrees. Combining Gelardi with Petermann accounts for the front cover and spine being separated from engagement with stack; hence, adding the unadhered strip section and first and second hinge lines (see fig. above) of Petermann to the cover of Gelardi allows the cover and strip section to pivot about the first and second hinge axis and move into the opened position. Therefore, the Gelardi/Petermann combination reads on the claimed subject matter.

Regarding Applicant's argument that the strip section of Petermann "would have a width that would cause it to extend beyond the left end of the upper cover...", it is noted that such features are not recited in the claims. Applicant is arguing narrower than the limitations included in the claims. Furthermore, Petermann still accomplishes the purpose of allowing the pages/trays to lay flat when open.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5779423 to Bermingham has been included because it is relevant to the claimed subject matter.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA L. LALLI whose telephone number is (571)270-5056. The examiner can normally be reached on Monday-Friday 7:30 AM-5:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melissa L Lalli/
Examiner, Art Unit 3728

/Mickey Yu/
Supervisory Patent Examiner, Art
Unit 3728

